THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 2006 of 2006

DATED: 28.03.2006

BETWEEN:

K.Nagamalleswara rao @ Babu .. Petitioner

And

The Commissioner of Police,Vijayawada and another

..Respondents

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 2006 of 2006

ORAL ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Home.

The writ petition is filed for a declaration that the action of the first respondent in rejecting the petitioner's application for restoration of provision of existing security cover by his order in Memo C.No.1465/SB/S2/2005-06, dated 29.01.2006 is illegal arbitrary and for a consequential direction to the respondents to provide security to the petitioner with a minimum of 3 + 3 PSO's at free of cost immediately.

The petitioner claims to be a political activist, a social service activist and a senior politician of Vijayawada, Krishna District. He asserts that he is a senior leader of the Telugu Desam Party and the Vice President of the Vijayawada Urban unit of the said Party, Krishna District. He also claims to be the Chairman of the Katragadda Venkata Narayana Memorial Trust, Executive member of the Indian Red-cross Society, District Chairman of the Rotary Environment Protection and Greenery (Vijayanagaram to Krishna District) and the Secretary of the Clean and Green Environment Society at Vijayawada. On the basis of these extensive public service activities, the petitioner claims that he is required to move around the city of Vijayawada.

According to the petitioner, he faces a threat to his life and one such attempt was made on 26.08.2004, Cr.No.337of 2004 under Section 307 read with 34 of the Indian Penal Code was registered at the Police Station Krishna Lanka in respect of the said incident and the accused were charge sheeted. The said case is pending. In view of the threats to his life, he requested the respondents to provide him a security cover. The first respondent provided security with two gunmen from October, 2004 on payment of Rs.13,188/- per month. The petitioner's application for enhancement of the security cover was not responded to and on 11.06.2005 the first respondent withdrew the existing security cover with effect from 15.06.2005. As a result, the petitioner is unable to move out extensively to pursue his social service activities. The petitioner thereupon, submitted an application dated 10.08.2005 seeking restoration of the security cover.

Aggrieved by the withdrawal of the security cover, the petitioner filed W.P.No.24278 of 2005 assailing the memo, dated 11.06.2005, withdrawing the security cover. The said writ petition was disposed of on 20.12.2005 directing the respondents to review the threat perception and to take a decision afresh.

Thereupon, the impugned order was passed by the first respondent stating that as per the report received by the first respondent there was no threat perceived at present. The impugned memo also records that as the persons allegedly threatening the petitioner have been committed to trial in the sessions Court and a close watch is being maintained by the accused there was no need to provide a security cover at present.

The petitioner reiterates in the writ petition that there is a real and proximal threat to his life and that the decision of the first respondent to the contrary is arbitrary and irrational. The petitioner also avers that another attempt was made on his life on 22.10.2005 and this attempt was averted on account of the timely action taken by the Anti-Goonda Squad following a tip-off; Crime No.211 of 2005 was also registered against the persons who had attempted on the life of the petitioner and the case is pending.

The first respondent has filed a counter affidavit stating that according to the guidelines issued by the Government of Andhra Pradesh in G.O.Rt.No.655, dated 13.03.1997, a person may be provided individual security on threat perception, only on advance payment basis subject to availability of man power. A threat perception report in respect of the petitioner was obtained and reviewed during the second week of June and the decision was taken to withdraw the security, vide Memo dated 11.06.2005. This was also ratified by the Additional Director General of Police, Intelligence, A.P., Hyderabad, who is the Nodal Officer of the State Security Review Committee. It is also stated that as per the guidelines in G.O.Rtc.No.655 only constitutional functionaries and public representatives are entitled for security at State cost. The petitioner is not entitled for free security. Clause 6 of the G.O.Rt.No.655 also specifies that a person against whom a criminal case is registered in any police station in India must be considered as having a criminal back ground and persons having a criminal back ground should not be given security except when the criminal case is closed or he is acquitted. It is stated that there are number of criminal cases in which the petitioner was involved and in some of them he was acquitted and one case, Cr.No.167 of 2005 is pending trial and in another case Cr.No.257 of 1999 the petitioner was arrested preventively on 18.09.1999. The counter affidavit clearly and categorically asserts that both the petitioner and his apprehended assailant and opponent are leaders of rival mafia groups who

are involving themselves in anti-social activities and settlements of disputes for illegal gains. It is stated that these persons are under strict and close scrutiny to prevent them from interfering with one another and with social order in general. This watch is being maintained by the first respondent and that is how the attempt on the petitioner by his opponent was detected. It is also pleaded that Vijayawada city has grown vastly in the last decade, no additional manpower has been sanctioned to the first respondent unit and the existing manpower is highly inadequate. As such manpower cannot be deployed to provide security cover to the petitioner particularly as there is no threat to the petitioner as per the threat perception report. The first respondent also states categorically that on account of the criminal background of the petitioner, in terms of Clause 6 of G.O.Rt.No.655 and even otherwise, he is not entitled to any security cover.

A reply affidavit has been filed by the petitioner reiterating what is pleaded in the main writ petition and denying the allegations in the counter affidavit. The petitioner denies that he is a leader of Mafia group. He states that at present there are no criminal cases pending against him. Cr.No.167 of 2005 is only in relation to a political agitation undertaken by him. He reiterates, as there is a constant threat to his life there is need to enhance his security cover. He reiterates various “social service activities”, he is involved in.

It is not the petitioner’s case that the first respondent is inimically disposed towards him. The first respondent is a professional policeman and a member of the Indian Police Service. The first respondent has personally filed the (counter) affidavit asserting that he had called for threat perception report studied it and was satisfied that the petitioner is not entitled to security. The first respondent has also categorically and unequivocally stated that there was inadequate manpower within his jurisdiction for deployment to provide security, as none is required as per the threat perception report.

The fact of the matter is that the petitioner was an accused in a number of criminal cases and the first respondent has stated that the petitioner is not a social service activist as claimed. He is also an alleged leader of a mafia group involved in settling private disputes and deploying physical force therefor, contrary to the law of land.

In the light of the above categorical assertions by the first respondent, this Court does not discern any justification for grant of the relief as prayed for in the writ petition.

The writ petition is dismissed at the stage of admission.

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Justice Goda Raghuram

Dated: 28-03-2006

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